

Information Commissioner's Office

Consultation:

Age Appropriate Design code

Start date: 15 April 2019

End date: 31 May 2019

ico.

Information Commissioner's Office

Introduction

The Information Commissioner is seeking feedback on her draft code of practice [Age appropriate design](#) - a code of practice for online services likely to be accessed by children (the code).

The code will provide guidance on the design standards that the Commissioner will expect providers of online 'Information Society Services' (ISS), which process personal data and are likely to be accessed by children, to meet.

The code is now out for public consultation and will remain open until 31 May 2019. The Information Commissioner welcomes feedback on the specific questions set out below.

Please send us your comments by 31 May 2019.

Download this document and email to:
ageappropriatedesign@ico.org.uk

Print off this document and post to:
Age Appropriate Design code consultation
Policy Engagement Department
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

If you would like further information on the consultation please telephone 0303 123 1113 and ask to speak to the Policy Engagement Department about the Age Appropriate Design code or email ageappropriatedesign@ico.org.uk

Privacy statement

For this consultation, we will publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public or a parent). All responses from organisations and individuals responding in a professional capacity (e.g. academics, child development experts, sole traders, child minders, education professionals) will be published. We will remove email addresses and telephone numbers from these responses but apart from this, we will publish them in full.

For more information about what we do with personal data, please see our [privacy notice](#).

Section 1: Your views

Q1. Is the '**About this code**' section of the code clearly communicated?

Yes

If NO, then please provide your reasons for this view.

Q2. Is the '**Services covered by this code**' section of the code clearly communicated?

No

The general purpose of this section is clear, however, the terminology used is confusing, particularly in relation to "information society service" and what services the code specifically applies to. We recognise that this may be more accessible to those who are involved in the development of and provision of the services included in this section.

Standards of age-appropriate design

Please provide your views on the sections of the code covering each of the 16 draft standards

1. Best interests of the child: The best interests of the child should be a primary consideration when you design and develop online services likely to be accessed by a child.

2. Age-appropriate application: Consider the age range of your audience and the needs of children of different ages. Apply the standards in this code to all users, unless you have robust age-verification mechanisms to distinguish adults from children.

3. Transparency: The privacy information you provide to users, and other published terms, policies and community standards, must be concise, prominent and in clear language suited to the age of the child. Provide additional specific 'bite-sized' explanations about how you use personal data at the point that use is activated.

4. Detrimental use of data: Do not use children's personal data in ways that have been shown to be detrimental to their wellbeing, or that go against industry codes of practice, other regulatory provisions or Government advice.

5. Policies and community standards: Uphold your own published terms, policies and community standards (including but not limited to privacy policies, age restriction, behaviour rules and content policies).

6. Default settings: Settings must be 'high privacy' by default (unless you can demonstrate a compelling reason for a different default setting, taking account of the best interests of the child).

7. Data minimisation: Collect and retain only the minimum amount of personal data necessary to provide the elements of your service in which a child is actively and knowingly engaged. Give children separate choices over which elements they wish to activate.

8. Data sharing: Do not disclose children's data unless you can demonstrate a compelling reason to do so, taking account of the best interests of the child.

9. Geolocation: Switch geolocation options off by default (unless you can demonstrate a compelling reason for geolocation, taking account of the best interests of the child), and provide an obvious sign for children when

location tracking is active. Options which make a child's location visible to others must default back to off at the end of each session.

10. Parental controls: If you provide parental controls give the child age appropriate information about this. If your online service allows a parent or carer to monitor their child's online activity or track their location, provide an obvious sign to the child when they are being monitored.

11. Profiling: Switch options based on profiling off by default (unless you can demonstrate a compelling reason for profiling, taking account of the best interests of the child). Only allow profiling if you have appropriate measures in place to protect the child from any harmful effects (in particular, being fed content that is detrimental to their health or wellbeing).

12. Nudge techniques: Do not use nudge techniques to lead or encourage children to provide unnecessary personal data, weaken or turn off privacy protections, or extend use.

13. Connected toys and devices: If you provide a connected toy or device ensure you include effective tools to enable compliance with this code

14. Online tools: Provide prominent and accessible tools to help children exercise their data protection rights and report concerns.

15. Data protection impact assessments: Undertake a DPIA specifically to assess and mitigate risks to children who are likely to access your service, taking into account differing ages, capacities and development needs. Ensure that your DPIA builds in compliance with this code.

16. Governance and accountability: Ensure you have policies and procedures in place which demonstrate how you comply with data protection obligations, including data protection training for all staff involved in the design and development of online services likely to be accessed by children. Ensure that your policies, procedures and terms of service demonstrate compliance with the provisions of this code

Q3. Have we communicated our expectations for this standard clearly?

1. Best interests of the child

Yes

If NO, then please provide your reasons for this view.

2. Age-appropriate application

No

Although the information around age-ranges (and related developmental stages) is provided, it is not as clearly set out as in the first section (Best Interests of the Child) reagrding formatting. This seems to be a lack of consistency regarding formatting which makes it more difficult to digest the information. It would be useful to have a conclusion of bullet points set out clearly at the end of each section.

3. Transparency

Yes

If NO, then please provide your reasons for this view.

4. Detrimental use of data

Yes

If NO, then please provide your reasons for this view.

5. Policies and community standards

Yes

If NO, then please provide your reasons for this view.

6. Default settings

Yes

If NO, then please provide your reasons for this view.

7. Data minimisation

Yes

If NO, then please provide your reasons for this view.

8. Data sharing

Yes

If NO, then please provide your reasons for this view.

9. Geolocation

Yes

If NO, then please provide your reasons for this view.

10. Parental controls

No

We largely think this standard is communicated clearly however, the setting of the age-ranges is key - and again considering developmental stages - and also the variance in some parent's approach and their willingness/reluctance to monitor. The presence of parental controls can give an impression of safety which may not be there as there is still a risk that this is dependent on a parent/carer's digital literacy/interest/time/access to technology.

11. Profiling

No

The default setting set as 'off' is positive and providing young people with the choice over profiling is a positive however, this still provides young people with an opportunity to change the settings - with no guarantee of fully understanding them. Profiling of young people in general should be limited or only where it is a basic requirement for the service (which in most cases is highly unlikely).

12. Nudge techniques

No

We believe this standard should include more information about the impact that nudge techniques can have on the wellbeing of young people accessing services. The focus on the technology and the techniques is important but it is so important because of the effect it has and the behaviours it can lead to.

13. Connected toys and devices

Yes

If NO, then please provide your reasons for this view.

14. Online tools

Yes

If NO, then please provide your reasons for this view.

15. Data protection impact assessments

Yes

If NO, then please provide your reasons for this view.

16. Governance and accountability

Yes

If NO, then please provide your reasons for this view.

Q4. Do you have any examples that you think could be used to illustrate the approach we are advocating for this standard?

1. Best interests of the child

No

If YES, then please provide details.

2. Age-appropriate application

No

If YES, then please provide details.

3. Transparency

Yes

BBC Bitesize has clear and attention grabbing information around the privacy policies and cookies policies whenever you access their services. Scottish Book Trust's 'What's Your Story' website provides a great example of a privacy policy that is age appropriate and easily understandable to young people. The website also clearly explains the rights that young people have, how their service supports these rights, and how young people can activate and exercise their rights.

4. Detrimental use of data

No

If YES, then please provide details.

5. Policies and community standards

Yes

The 5Rights Youth Leadership Group note positive experiences with reporting on Instagram. They have experienced fast reactions to any reports and post are taken down immediately.

6. Default settings:

No

If YES, then please provide details.

7. Data minimisation

No

If YES, then please provide details.

8. Data sharing

No	If YES, then please provide details.
9. Geolocation	
Yes	We recognise that 'in app' default is different though and is set as 'on' but Snapchat alerts the user when Geolocation is on and automatically turns off when you end the session, allowing young people to be more informed about Geolocation use.
10. Parental controls	
No	If YES, then please provide details.
11. Profiling	
No	If YES, then please provide details.
12. Nudge techniques	
No	If YES, then please provide details.
13. Connected toys and devices	
No	If YES, then please provide details.
14. Online tools	
Yes	The CEOP badge provides a clear and recognisable link to reporting. This is available on a variety of platforms, for example, members.scouts.org.uk or kgsorkney.com has link to CEOP for students to be able to access reporting.
15. Data protection impact assessments	
No	If YES, then please provide details.
16. Governance and accountability	
No	If YES, then please provide details.

Q5. Do you think this standard gives rise to any unwarranted or unintended consequences?

1. Best interests of the child

No

If YES, then please provide your reasons for this view.

2. Age-appropriate application

Yes

Whilst recognising the right to safety and support is key, the age-ranges identified could potentially clash with young people's right to access information and participate online, particularly if there is a disparity between a user's age, developmental age and digital skills and literacy.

3. Transparency

No

If YES, then please provide your reasons for this view.

4. Detrimental use of data

No

If YES, then please provide your reasons for this view.

5. Policies and community standards

No

If YES, then please provide your reasons for this view.

6. Default settings

Yes

Children and young people may not be able to fully access the services provided by a platform if default settings don't allow.

7. Data minimisation

Yes

Setting the minimum data required may prove challenging, and this standard might push companies to find ways of building in elements that require additional information to be gathered. This could have unintended consequences for young people looking to engage. A young person's ability to access a service and participate in social engagement, particularly if centred around a specific app/site, if they are unable or unwilling to share 'essential' information. Again, whilst safety and support comes first, a young person's engagement with an app (for example) should not depend on how much data they are willing to trade.

8. Data sharing

No

If YES, then please provide your reasons for this view.

9. Geolocation

No

If YES, then please provide your reasons for this view.

10. Parental controls

Yes

Safety and support is paramount but this may result in young people withdrawing from a service if feeling they are being constantly monitored. The setting of the age-ranges is key - and again considering developmental stages - and also the variance in some parent's approach and their willingness/reluctance to monitor. There is still a risk that this is dependent on a parent/carer's digital literacy also.

11. Profiling

Yes

Children and young people may not have the same access to targeted content that is appropriate and relevant to their interests or needs.

12. Nudge techniques

No

If YES, then please provide your reasons for this view.

13. Connected toys and devices

No

If YES, then please provide your reasons for this view.

14. Online tools

No

If YES, then please provide your reasons for this view.

15. Data protection impact assessments

No

If YES, then please provide your reasons for this view.

16. Governance and accountability

No

If YES, then please provide your reasons for this view.

Q6. Do you envisage any feasibility challenges to online services delivering this standard?

1. Best interests of the child

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

2. Age-appropriate application

Yes

It is difficult to ensure that age verification is robust and that users can't input false information - self-declared ages can lead to this. Being locked out also raises other issues - with Facebook if your account is locked out of your account you must send photo identification/passport for verification.

3. Transparency

Yes

There need to be greater clarity on what companies/services are being asked to be transparent about.

4. Detrimental use of data

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

5. Policies and community standards

Yes

There is a need to ensure the standards are consistent across platforms and apps for every service and provider.

6. Default settings

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

7. Data minimisation

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

8. Data sharing

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

9. Geolocation

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

10. Parental controls

Yes

It's a challenge to make sure that information is appropriate for each age range, which is why the definition of ages and developmental needs is key. This needs to be carefully considered and communicated to avoid confusion and to make it simple for parents and carers to understand. It is also important to provide information about positive use and the rights that young people, particularly those over 16 have to access services.

11. Profiling

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

12. Nudge techniques

Yes

The Youth Leaders also see challenges in how the industry might interpret this standard. Could prompts/nudges be built into set up information? They may not be able to regularly prompt but could ask young people to provide additional information during app set up etc. The meaning of the Code must be explicit, so that lines cannot be blurred.

13. Connected toys and devices

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

14. Online tools

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

15. Data protection impact assessments

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

16. Governance and accountability

No

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

Q7. Do you think this standard requires a transition period of any longer than 3 months after the code come into force?

1. Best interests of the child

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

2. Age-appropriate application

Yes

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

The setting of age ranges/developmental stages is crucial to ensure young people are protected but also not blocked from accessing information and services they are entitled to access. To ensure the categorisation of ages is correct and there are robust age-verification methods in place, this process needs to be given appropriate time, which may be longer than three months.

3. Transparency

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

4. Detimental use of data

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

5. Policies and community standards

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

6. Default settings

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

7. Data minimisation

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

8. Data sharing

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

9. Geolocation

No

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10. Parental controls

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

11. Profiling

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the

5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

12. Nudge techniques

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

13. Connected toys and devices

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

14. Online tools

Yes

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

15. Data protection impact assessments

Yes

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

Depending on the size of the organisation and the products/services provided, this could be a lengthy process but this will be on a case by case/organisation by organisation basis. We recognise this gives could be exploited to buy more time so organisations may have to justify any request for more time which would require an independent judgement made on whether this should be granted.

16. Governance and accountability

No

Transition periods may need to vary slightly based on the specifics of each standard and the companies/services involved, however, the 5Rights Youth Leadership Group believe the transition periods should be kept to a minimum and clear timings should be communicated.

Q8. Do you know of any online resources that you think could be usefully linked to from this section of the code?

1. Best interests of the child

Yes

Young Scot 5Rights Youth Commission report -
https://www.youngscot.net/wp-content/uploads/2017/05/Five_Rights_Report_2017_May.pdf

2. Age-appropriate application

Yes

Young Scot 5Rights Youth Commission report -
https://www.youngscot.net/wp-content/uploads/2017/05/Five_Rights_Report_2017_May.pdf

3. Transparency

Yes

Young Scot 5Rights Youth Commission report -
https://www.youngscot.net/wp-content/uploads/2017/05/Five_Rights_Report_2017_May.pdf.

4. Detimental use of data

Yes

Young Scot 5Rights Youth Commission report -
https://www.youngscot.net/wp-content/uploads/2017/05/Five_Rights_Report_2017_May.pdf

5. Policies and community standards

No

If YES, then please provide details (including links).

6. Default settings

Yes

<https://young.scot/digiaye>

7. Data minimisation

No

If YES, then please provide details (including links).

8. Data sharing

Yes

Young Scot 5Rights Youth Commission report -
https://www.youngscot.net/wp-content/uploads/2017/05/Five_Rights_Report_2017_May.pdf

<https://young.scot/digiaye>

9. Geolocation

Yes

<https://young.scot/digiaye>

10. Parental controls

Yes

<https://young.scot/information/rights/what-can-you-do-at-what-age/>

11. Profiling

No

If YES, then please provide details (including links).

12. Nudge techniques

No

If YES, then please provide details (including links).

13. Connected toys and devices

No

If YES, then please provide details (including links).

14. Online tools

Yes

<https://young.scot/digiaye>

15. Data protection impact assessments

No

If YES, then please provide details (including links).

16. Governance and accountability

No

If YES, then please provide details (including links).

Q9. Is the '**Enforcement of this code**' section clearly communicated?

Yes

If NO, then please provide your reasons for this view.

Q10. Is the '**Glossary**' section of the code clearly communicated?

Yes

If NO, then please provide your reasons for this view.

Q11. Are there any key terms missing from the '**Glossary**' section?

No

If YES, then please provide your reasons for this view.

Q12. Is the '**Annex A: Age and developmental stages**' section of the code clearly communicated?

Yes

If NO, then please provide your reasons for this view.

Q13. Is there any information you think needs to be changed in the '**Annex A: Age and developmental stages**' section of the code?

Yes

We acknowledge this section mentions age and developmental stages, but the 5Rights Youth Leadership Group would like to highlight that, despite being at the same age, no two young people are the same and their development needs or experiences could still differ greatly. The Youth Leadership Group encourages flexibility in the Code to allow case by case considerations of the individual young person, as grouping young people solely by age can risk overlooking the diversity of other factors that can have an impact on a young person's maturity and ability to handle different situations. Alternatively, young people could be grouped by the actual developmental milestones reached instead of age. The 5Rights Youth Leadership Group are glad to see it touches upon literacy, however it doesn't explicitly mention 'digital literacy' i.e. young people who are at the younger end of the age range could be highly digitally literate and vice versa. A more all encompassing approach here would be beneficial to cover any grey-areas.

Q14. Do you know of any online resources that you think could be usefully linked to from **the 'Annex A: Age and developmental stages'** section of the code?

No

If YES, then please provide details (including links).

Q15. Is the '**Annex B: Lawful basis for processing**' section of the code clearly communicated?

Yes

If NO, then please provide your reasons for this view.

Q16. Is this '**Annex C: Data Protection Impact Assessments**' section of the code clearly communicated?

Yes

If NO, then please provide your reasons for this view.

Q17. Do you think any issues raised by the code would benefit from further (post publication) work, research or innovation?

Yes

Developing online tools that are appropriate and relevant for young people will take time and funding to ensure it adheres to the code. Robust age verification to ensure children and young people are only accessing services and tools appropriately designed for their age range needs to be researched and developed to make sure they cannot be bypassed. It would be useful to have a condensed 'bitesized' and accessible versions of the code that are easy to quickly read and understand.

Section 2: About you

Are you:

A body representing the views or interests of children?

Please specify:

A body representing the views or interests of parents?

Please specify:

DUE TO DOCUMENT FORMATTING, WE ARE UNABLE TO ADD THIS ABOVE IN 'A body representing the views or interests of children' so adding here:

Young Scot is the national youth information and citizenship charity in Scotland working with young people aged 11-26 across Scotland. The response given in this document was prepared by the Young Scot 5Rights Youth Leadership Group. Launched in February 2018 by Young Scot, the Scottish Government, and 5Rights, the Young Scot 5Rights Youth Leadership Group is a diverse group

of 30 young people from across Scotland, aged 11 to 19, who champion their rights in the digital world. Their work builds on the recommendations co-designed by the Young Scot 5Rights Youth Commission in their report, 'Our Digital Rights', from May 2017, and focuses on investigating how these recommendations can be implemented and how young people's rights can be realised in the digital world in practice. Specifically, the Youth Leaders have explored how young people can support each other around their digital rights, the role that businesses can play in realising young people's rights, what cyber resilience means to young people, and how innovative technology can help young people exercise their rights in the digital world. As part of 2018 the Year of Young People in Scotland, the Youth Leaders also hosted a 5Rights Summit for young people and the British Irish Council Administrations to celebrate and raise awareness of 5Rights.

A child development expert?

Please specify:

An Academic?

Please specify:

An individual acting in another professional capacity?

Please specify:

A provider of an ISS likely to be accessed by children?

Please specify:

A trade association representing ISS providers? Please specify:	<input type="checkbox"/>
An individual acting in a private capacity (e.g. someone providing their views as a member of the public or a parent)?	<input type="checkbox"/>
An ICO employee?	<input type="checkbox"/>
Other? Please specify:	<input type="checkbox"/>

Thank you for responding to this consultation.

We value your input.